The 11 HR Policies You Must Create or Revise Right Now



HR policies, like the laws they're targeted to comply with, are a work in progress. In addition to traditional HR policies governing basic pay, benefits, and rules of conduct, companies need new policies to deal with modern employment challenges that either didn't exist or were fringe issues just 5 or so years ago. Here's a look at 11 newfangled HR policies that every company needs—or at least will soon need for the rest of the decade and beyond.

1. Remote Work & Telecommuting Policies

If, like many companies, you allow employees to work from home or another remote location, you need to establish clear ground rules governing the arrangement by implementing a written policy on telecommuting that:

- Requires the company to approve all remote work arrangements in writing.
- Requires the company and employee to enter into a written agreement setting out the specific terms of the arrangement.
- Lists the required technology and equipment and who's responsible for providing it.
- Establishes the company's right to monitor the telecommuter's work and ensure it meets specific productivity standards.
- Addresses the telecommuter's work safety and how it will be provided for.
- Gives the employer clear rights to terminate the employee's telecommuting rights.

Strategic Pointer: Ensure that all of your remote work arrangements provide for accurate source deductions that are in line with the CRA's newly clarified rules for determining the Province Of Employment of remote workers.

2. AI Workplace Use Policy

While it can increase productivity, use of ChatGPT or other large language models artificial intelligence (AI) platforms for work can also expose your company to a range of liability risks from human rights violations to copyright infringements. That's why it's essential to create a written policy setting out clear ground rules on employee use of AI that addresses:

- Data confidentiality.
- Personal privacy.
- Risks of cyberattack.
- Copyright and other infringement.
- Deceptive trade practice.
- Quality assurance and control issues.
- Professional ethics.

3. AI Bias Policy & Protocol

As with employees, HR directors who deploy AI and algorithmic technology for HR operations put a company at legal risk. The danger is particularly significant in hiring and recruiting due to the subtle and hidden biases and prejudices that may be hardwired into AI solutions. **Example:** In 2018, Amazon pulled the plug on an AI-based recruitment program after discovering that the algorithm was skewed against women. The model was programmed to vet candidates by observing patterns in resumes submitted to the company over a 10-year period. Most of the candidates in the training set were men. As a result, the AI taught itself that male candidates were preferred over female candidates. That's why it's essential to audit your current AI uses for hidden biases based on a legally sound and proven Bias Audit template.

4. Pay Transparency Policy

Six jurisdictions (Federal, BC, Newfoundland, Nova Scotia, Ontario, and Prince Edward Island) have adopted pay transparency laws. Pay transparency is also likely to catch on in other provinces in the coming years. That's why it's advisable for companies to create their own pay transparency policy. Where they're in effect, pay transparency laws generally require employers to take 3 and maybe 4 steps:

- Refrain from seeking information about a job applicant's pay history.
- List salary information for a position in job ads.
- Refrain from retaliating against applicants for asking about their pay or discussing how much they make with coworkers.
- Submit annual pay transparency reports (FED and BC).

5. Electronic Monitoring Policy

Use of GPS, software, and other electronic solutions enabling employers to monitor their employees at work can improve workplace safety and productivity. However, it may also violate employees' personal privacy rights. The issue has become a popular cause of HR litigation. In 2022, Ontario opened a new legal front when it amended the *Employment Standards Act* to require employers with 25 or more employees to implement a written policy regarding electronic monitoring of employees. Whether risk of liability comes from union grievances, employee complaints, or prosecution, companies and their HR directors must ensure that the digital solutions they use to monitor employees remain within personal privacy boundaries and, if you're in Ontario, implement a legally sound electronic monitoring policy that meets ESA requirements. Of course, such a policy is advisable in all parts of Canada.

6. Employee Use of Recording Devices in the Workplace Policy

The controversy between illicit monitoring and personal privacy runs in both directions. Thus, there's been a growing body of case law addressing the question of whether secretly recording company meetings or private conversations with coworkers

without consent is just cause to terminate an employee. While rulings vary depending on the specific facts involved, companies are in a much stronger position to justify discipline when they have and implement a clearly written policy restricting employees' use of recording devices in the workplace.

7. Employee Right to Disconnect Policy

Achieving a balance between life and work gets harder all the time. With labour in short supply, employees are being pressured to work longer hours; and as technology and telecommuting blur the lines between work and home, employees are never truly off duty even outside of their normal work hours. Consequently, a new kind of employment standard law has come into vogue that gives employees the right to be free of all work communications when they're off-duty. While Ontario is the first to adopt "right to disconnect" laws, several jurisdictions are considering similar laws. Even if it's not required, giving employees a right to disconnect could provide a significant boost to recruitment, retention, and morale. The starting point is to adopt a written right to disconnect policy.

8. Time Theft & Work Time Policy

Canada's continuing labour shortage has increased the pressure on HR directors to maximize productivity. Time theft stands in the way of that challenge. Consider these sobering numbers:

- **$400 billion:** How much time theft costs U.S. employers in productivity losses each year.
- **43:** Percentage of hourly workers who admit to exaggerating the hours they work during shifts.
- **74:** Percentage of employers that suffer payroll losses as a result of buddy punching where one employee punches in for another.

The key to stopping time theft is to implement a written policy on time theft and proper use of work time.

9. Quiet Quitting & Productivity Policy

Another fundamental challenge to maximizing productivity is "quiet quitting," a social phenomenon in which employees deliberately disengage from work without actually abandoning their job. The idea is to do only the bare minimum needed to collect their paycheque. Quiet quitters show up around 9 AM and leave the second the clock strikes 5. They don't care about, and often despise the company, customers and people they work with. While the long-term resolution requires support for employees' mental health, promotion of work-life balance, rewarding productivity, and increasing engagement, companies should also direct quiet quitting head-on in an express written policy that sends employees a clear message discouraging the practice.

10. Off-Duty Conduct Policy

Contrary to popular misconception, employers do have a legitimate interest in regulating how employees behave outside the workplace. The key for HR directors is to understand the rules and how to make a legally sound determination about whether you've reached the point at which off-duty conduct becomes just cause for discipline when dealing with your own employees who commit serious transgressions away from work. Part of the strategy is to create and enforce an HR Policy on Off-Duty Conduct.

11. Revise Sick Leave Policies to Keep Up with New Employment Standards Changes

Almost every jurisdiction in Canada has changed its employment standards sick leave rules since the COVID pandemic ended. There are currently 4 jurisdictions (FED, BC, PEI, QC) where employees have paid sick leave; most provinces have also adopted public health emergency leave rights allowing employees to take leave if they or a family member has COVID or another disease subject to a public health emergency, which may include paid leave. That's why it's essential to know the current sick leave requirements in each part of Canada that you operate and make whatever policy adjustments necessary to ensure compliance.